

REMARKS/ARGUMENTS

In the final Office Action dated December 8, 2006, Claims 1-2, 6-12, 16-23, 26-28, and 32-33 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application Publication No. 2003/0033296 to Rothmuller et al. ("Rothmuller"). Claims 29-31 were rejected under 35 U.S.C. § 103(a) as being obvious over Rothmuller in view of newly-cited U.S. Patent Application Publication No. 2002/0113803 to Samra et al. ("Samra"). Claims 1-2, 7-12, 17-20, and 28-33 were objected to for minor informalities. Applicants have amended Claims 1-2, 7-12, 17-20, and 28-33 to correct the informalities in claim language as suggested by the Examiner. As explained below, Applicants respectfully submit that all of the pending claims are patentable over the cited references, viewed either alone or in combination. As such, Applicants respectfully request reconsideration and allowance of all of the pending claims of the present application.

I. Summary of the Claimed Invention

Independent Claim 1 is directed to an application for accessing a plurality of media files on a digital device. The application is configured to generate a media view that provides access to the media files and associates the media files with a period of time. For example, Figure 1 of the specification illustrates how media files **220** may be associated with periods of time, in accordance with one embodiment of the invention.

The application of Claim 1 is also configured to generate an information identifier that is associated with at least one item of information including at least one of a digital media file, a calendared event, and a period of time. The information identifier enhances identification of the at least one item of information by providing for a text note to be associated with the respective item of information and by graphically altering a representation of the respective item of information in a manner visually distinct from the associated text note. For example, Figure 3 and page 20, lines 6-30, of the present application illustrate and describe various ways that an information identifier may graphically alter the representation of an item of interest in accordance with embodiments of the claimed invention. For example, graphically altering the representation of an item of interest may include altering the size, color, or border of the

representation of the item of information. In one embodiment, a frame **500** is added to a selected representation of a digital image file.

Independent Claims 11 and 21 are similarly directed to a device and a method that provide for accessing and/or classifying a plurality of media files and for associating the information identifiers with selected items of information.

II. The Rothmuller reference does not anticipate the independent claims of the present application.

When rejecting independent Claims 1, 11, and 21, the Office Action cites the icons illustrated in Figure 6 and described in paragraphs 0039 and 0040 of Rothmuller as teaching information identifiers that graphically alter a representation of an item of information, such as digital media file. In this regard, Rothmuller describes a first type of tag, i.e. a “media tag” (see ¶ 0039), that can be used to cause the media type icons of Figure 6 to be displayed with a representation of a media file and, thereby, indicate media type. See ¶¶ 0039-0040 and Figure 6. However, Rothmuller does not describe that such media tags or media type icons provide text notes or text messages to be associated with the media file, as required by independent Claims 1, 11, and 21.

Rothmuller does describe a second type of tag **350**, i.e. “metadata tags” (see ¶ 0005), that can provide metadata for a media file; however, Rothmuller does not describe that associating these types of tags with a media file will graphically alter the representation of the media file, as required by independent Claims 1, 11, and 21. The Office Action points to paragraph 0005 of Rothmuller where it is said that a metadata tag can be “graphically associated” with an object. This paragraph, however, describes that graphically associating a metadata tag refers to the ability to drag and drop a graphical representation of a metadata tag onto a graphical representation of the media file such that the metadata associated with the metadata tag is associated with the metadata of the media file. Rothmuller does not describe that graphically associating a metadata tag with a media file graphically alters a representation of the respective object. Likewise, the figures of Rothmuller do not illustrate that a metadata tag **350** (i.e., a tag

having an associated text note or text message) graphically alters the representation of the media file. *See* Figure 1.

In sum, Rothmuller describes two different types of tags, a metadata tag that allows a user to associate customized text with a media file's metadata, and a media tag that allows a user to associate a media type icon with a media file. Rothmuller does not describe a tag that both graphically alters the representation of the media file and provides for a text note or text message to be associated with the media file, as required by the independent claims of the present application. Therefore, Rothmuller does not anticipate independent Claims 1, 11, and 21 under 35 U.S.C. § 102.

Rothmuller also does not provide any suggestion to create a tag that both graphically alters the representation of the media file and provides for a text note to be associated with the media file. With regard to the media type icons of Figure 6, Rothmuller only describes that the media file representations can display media file type to the user in much the same way that application specific icons (e.g., a Word icon, a PDF icon, Excel icon, etc.) have been used for years to display the media type of a media file. Thus graphically displaying the media type of a media file is nothing new and does not suggest graphically altering the representation of a media file in order to indicate that a particular text note is associated with the media file. Therefore, Rothmuller does not teach or suggest an information identifier that both provides for a text note to be associated with a media file and graphically alters the representation of the media file in a manner visually distinct from the associated text note, as required by Claims 1, 11, and 21. Thus, Rothmuller also does not make obvious the inventions claimed in independent Claims 1, 11, and 21.

III. The Samra reference is nonanalogous art.

When rejecting dependent Claims 29-31, the Office Action cites the Samra reference. The Samra reference, however, should not be considered prior art since the Samra reference is not analogous to the claimed invention. To rely on a reference under 35 U.S.C. § 103, the reference must be either in the field of the applicant's endeavor or reasonably pertinent to the particular problem with which the invention was concerned. *See, e.g.*, MPEP 2141.01(a)(I)

(citing *In re Oetiker*, 977 F.2d 1443, 1446 (Fed. Cir. 1992)). A reference may be considered to be within the same field of endeavor where the reference has essentially the same function and structure as the claimed invention. *See, e.g.*, MPEP 2141.01(a)(II); *In re Deminski*, 796 F.2d 436, 442 (Fed. Cir. 1986). A reference may be considered reasonably pertinent to the particular problem with which the invention was concerned if, at the time of the invention, a person of ordinary skill in the art would reasonably be expected to have consider the reference when looking for a solution to the problem facing the inventor. *See, e.g., In re Oetiker*, 977 F.2d 1447; MPEP 2141.01(a)(I) (citing *In re Clay*, 966 F.2d 656, 659 (Fed Cir. 1992)).

As described above, the claimed invention is directed to an application, a device, and a method that provide for accessing and/or classifying a plurality of media files stored in a digital device. More specifically, the claimed invention involves a media view or a media diary that provides access to the plurality of digital media files and, in some cases, associates the media files with particular periods of time. The claimed invention is also directed to classifying or otherwise enhancing the identification of at least some of the plurality of media files (or other items of information). In contrast, the Samra reference is directed to software that provides for collaborative digital non-linear editing of a video. More particularly, the Samra software involves adding editing notes to a video by overlaying the visual representation of the video with one or more layers, the layers containing the editing notes. The Samra reference is further directed to various systems that allow for collaborative editing of the video by users located remotely from each other. In other words, the claimed invention is directed to an application for providing access to and classifying a plurality of different media files in the form of a media diary or a media view, while the Samra reference is directed to an application for allowing remote collaborative editing of a video. Therefore, the Samra application and the claimed invention have different functions and structures and are not in the same field of endeavor.

The particular problem that the Applicants were faced with involved the problem of presenting and storing a plurality of media files in a way that would allow a user to more easily organize, search for, and distinguish between the media files. *See, e.g.*, the Background section of the present application. For example, paragraph 0010 of the present application describes how media file management applications may utilize a scroll function to allow a representation of the

media file to be displayed to the user and to allow the user to locate files by browsing the plurality of files and identifying the file of interest. Paragraph 0010 continues to describe how, especially in instances in which large collections of media files are browsed, users may find it difficult to spot the particular media file in which they are interested in. The claimed invention provides a solution to this problem by, for example, providing information identifiers that enhance identification of a media file by graphically altering a representation of the media item. *See, e.g.*, Figure 3 of the present application. The Samra reference is directed to a system that provides for collaborative video editing and not to a system for presenting and/or classifying a plurality of media files. Since the Samra reference is not concerned with presenting or classifying a plurality of media files, a person having ordinary skill in the art would not have looked to the Samra reference for a solution to problems related to searching and identifying one or more media files amongst a plurality of media files. In fact, since the Samra reference is directed to editing a single file or video production, the problem of distinguishing between media files was not even a consideration in the Samra reference. Thus, the Samra reference is not reasonably pertinent to the particular problem with which the invention was concerned.

Therefore, Applicants submit that the Samra reference is nonanalogous art and therefore is not prior art for purposes of 35 U.S.C. § 103. As described above, one cannot reasonably assume that a person having ordinary skill in the art would have considered the Samra reference when presented with the problems that the Applicants were presented with when conceiving of the claimed invention. Any combination of the Samra reference and the Rothmuller reference can only be made with the benefit of hindsight in view of Applicant's disclosure.

In summary, Applicants submit that the Rothmuller reference does not teach or suggest the invention recited by the independent claims of the present application. Applicants further submit that the Samra reference is nonanalogous art. As such, Applicants submit that all of the pending claims of the present application are allowable over the Rothmuller and Samra references.

Appl. No.: 10/715,093
Amdt. dated 02/06/2007
Reply to Office Action of December 8, 2006

Conclusion

In view of the remarks and amendments presented above, it is respectfully submitted that the claims of the present application are in condition for allowance. It is respectfully requested that a Notice of Allowance be issued in due course. The Examiner is requested to contact Applicants' undersigned attorney to resolve any remaining issues in order to expedite examination of the present application.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



Christopher W. McAvoy
Registration No. 57,055

Customer No. 00826
ALSTON & BIRD LLP
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000
Tel Charlotte Office (704) 444-1000
Fax Charlotte Office (704) 444-1111

ELECTRONICALLY FILED USING THE EFS-WEB ELECTRONIC FILING SYSTEM OF THE UNITED STATES PATENT & TRADEMARK OFFICE ON February 6, 2007.

LEGAL02/30214040v1